

LEE R. NEWSOM

IBLA 81-633

Decided October 16, 1981

Appeal from decision of Nevada State Office, Bureau of Land Management, declaring mining claims abandoned and void. N MC 109829 through N MC 109832.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment--Mining Claims: Abandonment

The failure to file the instruments required by sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1 and 3833.2 in the proper Bureau of Land Management office within the time periods prescribed therein conclusively constitutes abandonment of the mining claim by the owner.

2. Notice: Generally--Regulations: Generally--Statutes

All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

APPEARANCES: Lee R. Newsom, pro se.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

This appeal is from a decision dated April 6, 1981, by the Nevada State Office, Bureau of Land Management (BLM), declaring mining claims N MC 109829 through N MC 109832 (Gem Hills, Black Flats, High Hopes, and Windy Hills placers), abandoned and void because no evidence of assessment work or notices of intention to hold the claims were filed on or before December 30, 1980, as required by section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and 43 CFR 3833.2-1. Appellant filed the required document with BLM on December 31, 1980.

In his statement of reasons, appellant asserts that he was under the impression that December 31, 1980, was the deadline to submit the proof of labor with BLM. Appellant questions whether the filing of the required document one day late is sufficient to render his claims abandoned and void.

[1] Section 314(a) of FLPMA, 43 U.S.C. § 1744(a) (1976), and the pertinent regulation, 43 CFR 3833.2-1(c), require that the owner of an unpatented mining claim located after October 21, 1976, shall, prior to December 31 of each year following the calendar year in which the claim was located, file with BLM evidence of annual assessment work performed during the previous assessment year or a notice of intention to hold the claim. Failure to file the required instrument is deemed conclusively to constitute an abandonment of the mining claim under section 314(c) of FLPMA, 43 U.S.C. § 1744(c) (1976), and 43 CFR 3833.4(a).

[2] The fact that appellant may have been unaware of the filing requirement imposed by the Congress, while unfortunate, does not excuse him from compliance. Those who deal with the Government are presumed to have knowledge of the statute and the regulations duly adopted pursuant thereto. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Donald H. Little, 37 IBLA 1 (1978). The responsibility for complying with the recordation requirements rested with appellant. Although to him this appears to be a harsh result for filing one day late, we wish to point out that the conclusive presumption of abandonment which attends the failure to file an instrument required by 43 U.S.C. § 1744 (1976) is imposed by the statute itself. A matter of law, it is self-operative and does not depend upon any act or decision of an administrative official. In enacting the statute, Congress did not invest the Secretary with authority to waive or excuse noncompliance with the statute, or to afford claimants any relief from the statutory consequences. Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981); Glen J. McCrorey, 46 IBLA 355 (1980).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Edward W. Stuebing

Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Bruce R. Harris
Administrative Judge

